

Message Text

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ACTION EB-08

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FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC PRIORITY 2747

UNCLAS CANBERRA 2094

E.O. 11652: N/A

TAGS: ETRD, AS

SUBJ: TARIFF ON SPRINKLERS: NELSON IRRIGATION CORP.

REF: (A) STATE 069101, (B) CANBERRA 1486, (C) CANBERRA 788

1. EMBASSY IS STYMIED BY ABSENCE OF INFORMATION REQUESTED IN PARA ONE, REFTEL B. TO RESTATE THE PROBLEM, BY-LAWS BRANCH OF AUSTRALIAN DEPARTMENT OF CUSTOMS ASSERTS CATEGORICALLY THAT THERE HAS NEVER BEEN AN APPLICATION FOR A BY-LAW. I.E. DUTY-FREE IMPORTATION, MADE IN NAME OF NELSON IRRIGATION OR BY SOUTHERN CROSS MACHINERY FOR NELSON. BY-LAWS BRANCH ALSO STATES THAT ONE CAN COUNT ON THE FINGERS OF HIS HAND THE NUMBER OF SPRINKLERS THAT HAVE COME IN UNDER BY-LAW. IN OTHER WORDS, WE ARE TALKING ABOUT A LOW-VOLUME ITEM IN WHICH EACH SALE IS ONE-OF-A-KIND. ACCORDINGLY, TO ASCERTAIN THE FACTS WE MUST HAVE THE NAME OF THE AGENT OR BUYER(S) WHO SECURED BY-LAW FOR NELSON.

2. PUTTING IT ANOTHER WAY, THE IRRIGATION PEOPLE IN CANBERRA HAVE NEVER HEARD OF NELSON IRRIGATION. BY CONTRAST, EVERYONE KNOWS SOUTHERN CROSS. SOUTHERN CROSS DATES BACK TO 1871, WHEN A FAMILY CONCERN IN TOOWOOMBA, QUEENSLAND, BEGAN MAKING AND SERVICING AGRICULTURAL IMPLEMENTS. SOON AFTER, IT ABSORBED SOUTHERN CROSS WINDMILLS, FROM WHICH IT TOOK
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ITS NAME. IT IS NOW A MAJOR FARM IMPLEMENTS MANUFACTURER AND EXPORTER WITH 1200 EMPLOYEES. HOWEVER, SOUTHERN CROSS, DESPITE BEING THE RECOMMENDED SOURCE FOR INFORMATION ABOUT IRRIGATION EQUIPMENT IN AUSTRALIA, IS FOR OBVIOUS REASONS NOT THE BEST SOURCE TO APPROACH FOR INFORMATION ABOUT NELSON.

3. ACCORDINGLY, WOULD APPRECIATE IT IF DEPARTMENT WOULD

PROVIDE NAME OF NELSON AGENT AS SOON AS POSSIBLE.

4. EMBASSY UNDERSTANDS DEPARTMENT'S PRIOR MESSAGES TO MEAN THAT NELSON IS SUGGESTING THAT SOUTHERN CROSS HAS COPIED ITS SPRINKLER. PLEASE CONFIRM WHETHER THIS UNDERSTANDING IS CORRECT. IF SO, DOES NELSON HAVE PATENT PROTECTION, AND IS IT DOING ANYTHING ABOUT IT? SINCE AT LEAST TWO LOCAL

COMPANIES ARE APPARENTLY MAKING EQUIPMENT SIMILAR TO THAT OF NELSON, ALLEGED COPYING BY ONE OF THEM WOULD NOT APPEAR TO HAVE ANY BEARING ON BY-LAW WITHDRAWAL. NEVERTHELESS, IF NELSON HAS A LITIGABLE CASE, IT WOULD PRESUMABLY WISH TO PURSUE IT.

5. IN REGARD TO CONGRESSMAN FOLEY'S QUESTION AS TO WHETHER SIMILAR ACTIONS HAVE BEEN TAKEN AGAINST OTHER AMERICAN FIRMS, PARTICULARLY THOSE DEALING WITH AGRICULTURAL EQUIPMENT, BY-LAWS COVER APPROXIMATELY 31 PERCENT OF AUSTRALIAN IMPORTS BY VALUE AND ARE ROUTINELY GRANTED AND WITHDRAWN. THOUGH BY-LAW WITHDRAWALS SOMETIMES AFFECT AMERICAN FIRMS, THERE ARE NO OTHER INSTANCES OF AMERICAN AGRICULTURAL EQUIPMENT FIRMS BRING A BY-LAW WITHDRAWAL TO EMBASSY'S ATTENTION.

6. FOCUSING ON BY-LAW WITHDRAWALS MISSES MAIN POINT OF BY-LAW SYSTEM, HOWEVER, WHICH IS THAT AMERICAN EXPORTERS RECEIVE AN ENORMOUS BENEFIT FROM IT. WITHOUT THE BY-LAW
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SYSTEM, ALL IMPORTS WOULD COME PL AT STATUTORY RATES OF DUTY. AS IT IS, IN FY 76 A DOLS 2.5 BILLION WORTH OF BY-LAW IMPORTS ENTERED AUSTRALIA DUTY-FREE, 31 PERCENT OF TOTAL IMPORTS. A DISPROPORTIONATE AMOUNT OF THIS WAS AMERICAN GOODS, A DOLS 876 MILLION, OR 53 PERCENT OF TOTAL IMPORTS FROM U.S. THUS, WHEN AUSTRALIA HAS UNILATERALLY ALLOWED A DOLS 876 MILLION WORTH OF DUTIABLE AMERICAN GOODS TO COME IN DUTY-FREE, ONE CAN HARDLY CLAIM UNFAIR TREATMENT WHEN THIS TREATMENT IS WITHDRAWN FROM A FEW PRODUCTS.

7. EMBASSY WOULD NOT WISH TO BE UNDERSTOOD TO BE SUGGESTING THAT THIS SYSTEM IS IDEAL. HOWEVER, GIVEN EXISTING HIGH RATES OF PROTECTION FOR AUSTRALIAN INDUSTRY, BY-LAW SYSTEM PROVIDES A NET BENEFIT OF MAJOR PROPORTIONS TO AMERICAN EXPORTERS. EMBASSY WOULD HOPE, THEREFORE, THAT THE WITHDRAWAL OF A BY-LAW, ADVERSE AS THIS MAY BE FOR THE U.S. COMPANY AFFECTED, WOULD NOT BE ERRONEOUSLY PERCEIVED AS PART OF GENERAL AUSTRALIAN MOVEMENT TOWARDS PROTECTIONISM.
ALSTON

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